

# State of New Mexico

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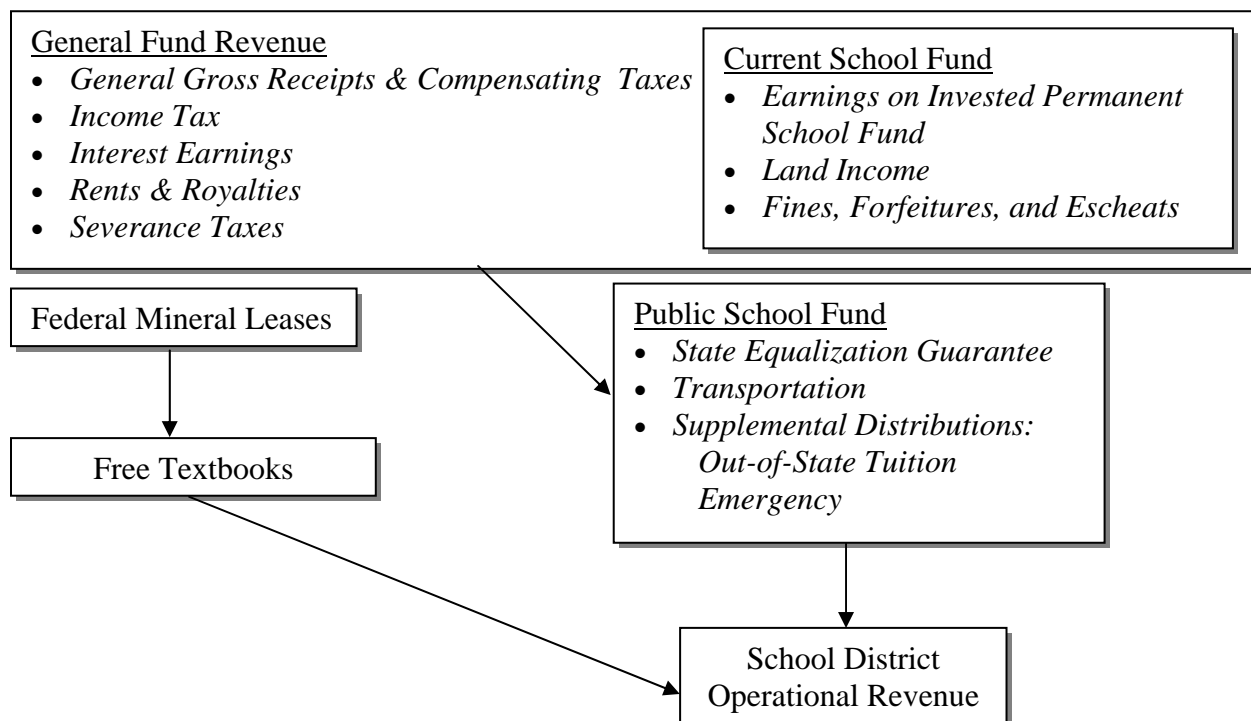
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## NEW MEXICO PUBLIC SCHOOL FUNDING FORMULA

### SOURCES OF PUBLIC SCHOOL FUNDING IN NEW MEXICO

Nearly all state-level school district operational funds are derived from the following sources: the General Fund, the Current School Fund, and Federal Mineral Leasing Revenue. Only one significant state appropriation is not distributed through the Public School Fund—the Free Textbook appropriation—which the Legislature makes from Federal Mineral Leasing Revenue. The Free Textbook allocation is determined by a district's 40<sup>th</sup> day membership [§22-15-9 NMSA 1978].



## METHOD OF DISTRIBUTION: THE PUBLIC SCHOOL FUNDING FORMULA

Enacted by the Legislature in 1974, the New Mexico Public School Funding Formula is based on a model developed by the National Education Finance Project in the late 1960s and early 1970s. The system supports the Legislature's policy that all students are entitled to an equal educational opportunity despite differences in local school district wealth. The formula is student driven and recognizes different costs for various educational programs.

Designed to distribute operational funds to school districts in a noncategorical manner, the formula also provides for local school district autonomy. Formula dollars received by local districts are not earmarked for specific programs. Within statutory and regulatory guidelines, school districts have the latitude to spend their dollars according to local priorities.

The establishment of educational need by each school district (based on the number of students enrolled on an average of the prior year's 80<sup>th</sup> and 120<sup>th</sup> days and participating in legislatively defined programs as described beginning on page 3) is the first function of the equalization formula. The formula uses cost differentials to reflect the relative costs incurred in providing these programs, making individual student needs the focal point of the formula.

The distribution of funds for each educational program is determined by the calculation of program units. Program units are the product of the number of students enrolled in a given program multiplied by the cost differential assigned to that program in statute. The program units are multiplied by the Training and Experience (T&E) Index in each district to adjust for instructor education and experience. Each district's instructional staff training and experience index is calculated based upon five academic classifications and five levels of teaching experience. The index is used as a multiplier of the total program units.

### Training & Experience Matrix

Academic Classification	Years of Experience				
	0-2	3-5	6-8	9-15	Over 15
Bachelor's Degree or Less	0.75	0.90	1.00	1.05	1.05
Bachelor's Plus 15 Credit Hours	0.80	0.95	1.00	1.10	1.15
Master's or Bachelor's Plus 45 Credit Hours	0.85	1.00	1.05	1.15	1.20
Master's Plus 15 Credit Hours	0.90	1.05	1.15	1.30	1.35
Post-Master's or Master's Plus 45 Credit Hours	1.00	1.15	1.30	1.40	1.50

The T&E Index is determined by:

1. multiplying the number of full-time equivalent (FTE) instructional staff in each academic classification by the numerical factor in the appropriate "years of experience" column;
2. adding the products calculated in (1) above; and
3. dividing the total in (2) above by the total number of FTE instructional staff.

State statute provides that no district's T&E factor can be less than 1.0.

The following factors are then added to the adjusted program units (which are those units multiplied by the district's T&E Index) if they are applicable: adjustments for school and district size, rural isolation, creation of new districts, at risk, enrollment growth, and National Board for Professional Teaching Standards (NBPTS)-certified teachers. The attached table on Page 8, "State Equalization Guarantee Distribution Formula," provides a graphic illustration of the calculation of units and determination of district revenues.

The current Public School Funding Formula has been in place for more than three decades and, during that time, has been under constant analysis. The results of these analyses have, for the most part, supported legislative enactment of data-based refinements to the structure of the formula while maintaining the philosophical concepts of educational equity for all students and local control.

In 1995-1996, a major study of the formula took place. The Legislature, the Executive, and the State Board of Education commissioned a comprehensive study of the Public School Funding Formula and jointly appointed members to a task force to coordinate the study. The Public School Funding Formula Task Force selected a consultant, worked with the consulting group as it performed the study, received the results of the study, and made recommendations to the Legislature for changes to the formula, which the Legislature enacted in 1997. In its principal finding, the consulting group concluded that: “When evaluated on the basis of generally accepted standards of equity, the New Mexico Public School Funding Formula is a highly equitable formula...spending disparities are less than in other states” and are “statistically insignificant.”

In 2005, the Legislature created the Funding Formula Task Force to address several issues that have arisen since the 1995-1996 study, including the adequacy of current educational programs to address the needs of all students, the alignment of the T&E Index with the three-tiered licensure system for teachers, and fiscal difficulties faced by school districts with a membership of 200 or less. As with the last study, an independent contractor has been selected to conduct a comprehensive examination of the Public School Funding Formula. The task force is required to make recommendations to the Legislature and the Governor by December 15, 2007.

As indicated previously, the funding formula is divided into three basic parts:

- Educational Program Units that reflect the different costs of identified programs;
- T&E Units that attempt to provide additional funds so that districts may hire and retain better educated and more experienced instructional personnel; and
- Other adjustment units that recognize local school and district needs, economies of scale, enrollment growth from one year to the next, at risk, NBPTS-certified teachers, and adjustments for the creation of a new district.

Total program units for each district are calculated as follows:

- **Early Childhood Education** – Kindergarten units are equal to the number of full-time equivalent (FTE) students times a cost differential of 1.44. Each early childhood education student attending for half day (which includes all three- and four-year-old developmentally delayed students) equals 0.5 FTE. All full-day kindergarten students equal 1.0 FTE.
- **Basic Education Programs** – All students enrolled in grades 1-12 are in basic education programs. Units for basic programs equal the sum of:
  - the product of grade 1 membership times the cost differential of 1.2;
  - the product of grades 2-3 membership times the cost differential of 1.18;
  - the product of grades 4-6 membership times the cost differential of 1.045; and
  - the product of grades 7-12 membership times the cost differential of 1.25.

- **Special Education Programs** – Special education students, including gifted students and students with disabilities, are classified as A, B, C, or D level depending on the intensity of services required. Special education students are counted first in grade level for basic education programs, then with the following additional special education units:
  - the product of the number of approved A and B level membership times the cost differential of 0.70;
  - the product of the C level membership times the cost differential of 1.00;
  - the product of the D level membership times the cost differential of 2.00;
  - the product of developmentally disabled three- and four-year-old children membership times the cost differential of 2.00; and
  - the product of the number of FTE personnel including diagnosticians in approved ancillary programs times the cost differential of 25.0.
- **Bilingual Education** – Bilingual programs for K-12 students attempt to ensure equal education opportunities for all students in New Mexico. Bilingual units are equal to the full-time equivalent students in these programs times 0.50.
- **Fine Arts Education** – Fine arts education units were added to the formula to provide additional funding to districts offering Public Education Department (PED)-approved elementary arts education programs that include visual arts, music, theater, and/or dance. Fine arts education units are equal to the full-time equivalent students in these programs times 0.05.
- **Elementary Physical Education** – The elementary physical education statute provides criteria to ensure that all schools will be eligible to participate in elementary physical education programs for students in kindergarten through grade 6 on a priority basis. Elementary physical education units are equal to the number of students in these programs times 0.06.

The sum of the units for early childhood, basic education, special education, bilingual education, fine arts education, and elementary physical education is the total program units, which is then multiplied by the district's T&E factor (see p. 2 above). The resulting number of units is referred to as adjusted program units.

Other factors that may be added include the following (all districts are eligible for at-risk units):

- **Size Adjustment Program Units** – School size adjustment units are based on a different calculation of student membership (MEM)<sup>1</sup> than are other adjustments, including district size, rural isolation, new district adjustment, at-risk, enrollment growth, and save-harmless units:

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<sup>1</sup>The number of all students in grades K-12 and three- and four-year-old developmentally disabled students are included in MEM when calculating district size, rural isolation, new district adjustment, at-risk, enrollment growth, and save-harmless units; however, students receiving C-level or D-level special education services or who are enrolled in three- and four-year-old developmentally disabled programs are excluded from MEM when calculating school size.

➤ **School Size Units**

- Elementary-Junior High Size Units

$$\frac{200 - MEM}{200} \times 1.0 \times MEM = Units$$

- Senior High Size Units

$$\frac{200 - MEM}{200} \times 2.0 \times MEM = Units$$

**OR**

$$\frac{400 - MEM}{400} \times 1.6 \times MEM = Units$$

➤ **District Size Units**

$$\frac{4000 - MEM}{4000} \times 0.15 \times MEM = Units$$

- **Rural Isolation Units** – Sometimes called the “sparsity” factor. This factor applies to districts over 10,000 MEM with a ratio of MEM to senior high schools less than 4,000 to 1:

$$\frac{4000 - MEM}{\text{No. of Senior High Schools}} \times 0.50 = Units$$

• **New District Adjustment Units**

- A newly created district is eligible for the following units:

$$(MEM \text{ for current year}) \times 0.147 = Units$$

- A school district whose membership decreases because of the creation of a new district is eligible for the following units:

$$(MEM \text{ for prior year} - MEM \text{ for current year}) \times 0.17 = Units$$

- **At-Risk Factor** – PED determines each district’s at-risk factor based on a three-year average of the percentage of Title-I-eligible students, the percentage of Limited English Proficient (LEP) students, and the district’s mobility rate. State statute requires PED to recalculate the at-risk factor each year [§22-8-23.3, NMSA 1978].

- **Enrollment Growth Units** – A school district or a charter school with an increase in MEM equal to or greater than 1.0 percent, when compared with the immediately preceding year, is eligible for additional program units as follows:

$$((MEM \text{ current year} - MEM \text{ previous year}) - (MEM \text{ current year} \times 0.01)) \times 1.5 = Units$$

**Plus**

$$(MEM \text{ current year} - MEM \text{ previous year}) \times 0.50 = Units$$

- **National Board for Professional Teaching Standards (NBPTS)** – Provides a yearly, one-time salary differential for teachers who are certified by NBPTS. The differential is calculated by multiplying by 1.5 the number of NBPTS-certified teachers employed by a district on or before the 40<sup>th</sup> day of the school year (verified by PED) by the current year's unit value. Districts must provide to each NBPTS-certified teacher at least the amount generated by that teacher.
- **Charter School Activities Units** – If the charter school they attend does not offer extracurricular activities, charter school students in grades 7-12 may participate in extracurricular activities sanctioned by the New Mexico Activities Association (NMAA) at another public school in the school district; charter school activities units are equal to the number of participating students times the cost differential of 0.1.
- **Home School Student Activities Units** – A home school student is eligible to participate in one NMAA-governed athletic activity at a public school in the student's attendance zone; home school student activities units are equal to the number of participating students times the cost differential of 0.1.

Listed below are additional terms related to the Public School Funding Formula not defined in the preceding explanation:

- **Program Cost** – The amount of money assumed under the formula to be necessary for a given district with a particular configuration of students and educational programs to provide educational services.
- **Unit Value** – A dollar amount calculated by dividing the legislative appropriation by the total number of units statewide:

$$\text{Unit Value} = \frac{\text{Program Cost}}{\text{Total Statewide Units}}$$

- **State Equalization Guarantee** – The largest single revenue source for public schools, which typically accounts for more than 80 percent of any district's operational revenues. This guarantee represents an attempt to assure all public school students access to programs and services appropriate to their needs despite local geographical or economic conditions. The distribution is noncategorical in nature and encourages local priority initiatives through the absence of categorical funding.
- **State Equalization Guarantee Distribution** – The amount of money distributed to each school district to ensure that the school district's operating revenue, including certain local and federal revenue, is equal to the school district's program cost. In making the distributions, the state takes certain credits and deductions, as applicable to each district:
  - The state takes credit for 75 percent of the local .5-mill levies and 75 percent of federal forest reserve funds and most Impact Aid (formally PL 874) funds, with the exception of Impact Aid funds for special education or for students living on Indian lands, which remain in the local districts. School districts retain 25 percent for operational or other purposes.

- If a district has excess cash balance as determined by a statutory formula, the state also takes credit up to a specific percentage of the estimated limit.
  - Districts that participate in the Utility Conservation Program have an additional amount subtracted from the program cost; that amount is held in a separate fund to be used solely for that program.
  - In addition, participating districts also have subtracted from program cost 90 percent of their certified portion of the debt service payments on bonds authorized pursuant to the *Energy Efficiency and Renewable Energy Bonding Act*.
- **“Save Harmless”** – In determining program cost for a small school district or a charter school with a membership of 200 or fewer students, units are calculated using either the average of the MEM on the 80<sup>th</sup> and 120<sup>th</sup> days of the prior year or the 40<sup>th</sup> day MEM of the current year, whichever is greater. When the number of units calculated on the basis of current year MEM is greater than the number of units calculated on the basis of the prior year averaged MEM, the difference is referred to as “save harmless.”

In the past, states relied primarily on local property taxes to fund both the operational and the capital outlay needs of their school districts. New Mexico decided more than 30 years ago that a change was needed. Since its enactment in 1974, the Public School Funding Formula has been the policy method by which the New Mexico State Legislature continues to provide equity in funding for all students relying upon the wealth of the state rather than the property tax wealth of individual districts. In turn, other states have followed New Mexico’s example. Now, that equity is no longer a primary concern, New Mexico, as are other states, is examining what constitutes an adequate educational program and the amount of funding sufficient to meet the educational needs of its most precious resource, its children.

# State Equalization Guarantee Computation

<u>Grade Level/Program Membership</u>		<u>Times</u>	<u>Cost Differential = Units</u>	
Kindergarten & 3- and 4-Year-Old DD	FTE	×	1.44	S U M  O F  U N I T S
Grade 1	MEM	×	1.20	
Grades 2-3	MEM	×	1.18	
Grades 4-6	MEM	×	1.045	
Grades 7-12	MEM	×	1.25	
<b><u>Special Education</u></b>				O F  U N I T S
Related Services (Ancillary)	FTE	×	25.00	
A/B Level Service Add-on	MEM	×	0.70	
C Level Service Add-on	MEM	×	1.00	
D Level Service Add-on	MEM	×	2.00	
3- and 4-Year-Old DD Program Add-on	MEM	×	2.00	U N I T S
<b><u>Bilingual Education</u></b>	FTE	×	0.50	
<b><u>Fine Arts Education</u></b>	FTE	×	0.05	
<b><u>Elementary Physical Education</u></b>	FTE	×	0.06	

**= TOTAL PROGRAM UNITS**

**T&E INDEX MULTIPLIER** → Times Value from 1.000 – 1.500

**= ADJUSTED PROGRAM UNITS**

Plus

D-Level NPTC Special Education Units  
Size Units (Elementary/Junior High; Senior High;  
District; Rural Isolation)  
New District Adjustment Units  
At-Risk Units  
Enrollment Growth Units  
National Board for  
Professional Teaching Standards Units  
Charter School Activities Units  
Home School Student Activities Units

**= TOTAL UNITS**

Plus Save Harmless Units

**= GRAND TOTAL UNITS**

**Grand Total Units × Unit Value = Program Cost**

– 75% Noncategorical Revenue Credits

– Excess Cash Balance

– Utility Conservation Program Contract Payments

– 90% of the Certified Amount (*Energy Efficiency and Renewable Energy Bonding Act*)

**= STATE EQUALIZATION GUARANTEE**



## FEDERAL IMPACT AID

### *History and Purpose*

First enacted in 1950, the Impact Aid program (formerly called PL 874) provides financial assistance to school districts by recognizing the impact of a federal presence upon a school district's ability to provide educational services. The law was enacted at a time when nearly all states required public schools to be funded through locally generated property taxes, thereby creating inequities based on local property tax wealth. In 1974, New Mexico became one of the first states in the nation to enact an equalized funding system based upon the wealth of the state as a whole rather than individual district property tax wealth.

New Mexico, because of its highly equalized funding formula, meets the disparity and proportionate tests required by the federal Impact Aid law and is one of only three states (Alaska and Kansas are the others) to qualify under federal guidelines as an equalized funding state. A state can qualify for federal approval by showing that the per pupil disparity between its highest and lowest spending districts is less than 25 percent, or by showing that 85 percent of its districts' education funds are raised in a wealth-neutral way so that each district receives the same amount of money for an equal tax effort. With the federal "equalized" designation, current state law allows the state to take credit for 75 percent of federal Impact Aid and forest reserve funds along with the local 0.5 mill levy. School districts may use the other 25 percent for operational or other allowable purposes. The state then distributes the State Equalization Guarantee (SEG), an amount equal to program cost minus the 75 percent credits and any cash balance credits, to school districts statewide.

The Impact Aid law (Title VIII of the *Elementary and Secondary Education Act of 1965* as amended by the *No Child Left Behind Act of 2001*) provides assistance to local school districts with concentrations of children residing on Indian lands, military bases, low-rent housing properties, or other federal properties and, to a lesser extent, concentrations of children who have parents in the uniformed services or employed on eligible federal properties but who do not live on federal property. (The US Department of Education refers to these children as "federally connected" children.)

Impact Aid basic support payments are made directly to individual school districts—not to the state in which they are located. New Mexico takes credit only for basic operational Impact Aid received by the districts; the state does not take credit for funds generated by students living on Indian lands, nor does it take credit for any special education Impact Aid funds generated by any federally connected students.

Between school years 2001-2002 and 2004-2005, total basic operational Impact Aid payments to school districts in New Mexico increased; thus, the Impact Aid credits taken by the state also increased, from \$48.8 million in 2001-2002 to \$51.9 million in 2004-2005. However, for the last two school years Impact Aid credits have decreased, falling to \$46.6 million in 2005-2006 and to \$44.8 million in 2006-2007. Attachment 1 provides a history of all credits—Impact Aid, federal Forest Reserve, and the required 0.5 mill local levy—from 1993-1994 actual amounts through 2007-2008 projected amounts.

As a component of the *No Child Left Behind Act*, the Impact Aid program is also up for reauthorization. Explicitly authorized through federal fiscal year 2007, the program was automatically extended for one additional year under the *General Education Provisions Act* (GEPA)<sup>1</sup>. In its budget request for federal fiscal year 2008, the Administration proposed continued funding for most programs at the 2007 levels. However, the Administration did propose to reduce construction payments.

Unlike most federal education funds, which generally are available for a 15-month period, Impact Aid funds are available only for the 12-month federal fiscal year for which they are appropriated. The federal fiscal year is named for the calendar year in which it ends; thus, the federal fiscal year 2007 Impact Aid appropriation became available on October 1, 2006.

### ***Impact Aid Lawsuit***

Each year, the Public Education Department (PED) must apply for a certification by the US Department of Education (USDE) that allows PED to consider Impact Aid revenues in the calculation of the SEG.

In 1999, the Zuni Public Schools and Gallup-McKinley County Public Schools filed an objection to the certification made by USDE allowing New Mexico to take credit for federal Impact Aid revenue in determining the distribution for the SEG for school year 1999-2000. At issue was the methodology used by USDE to make the determination, which the two districts maintained differed from the federal statutory language. An administrative judge and the USDE Secretary subsequently issued decisions rejecting the appeal of the school districts.

- An administrative judge subsequently issued a decision sustaining the USDE's certification and rejecting the arguments presented by Zuni and Gallup-McKinley. Both school districts subsequently appealed the administrative judge's decision to the USDE Secretary, who affirmed the judge's decision.
- Both districts then filed an appeal to the US Tenth Circuit Court of Appeals and in December 2004 a three-judge panel of the court on a 2-1 vote rejected the challenges of the Zuni and Gallup school districts. (See Attachment 2.)
- Both districts appealed the decision of the three-judge panel and asked for a review of the issues by the full court. This hearing was held on September 13, 2005 by the US Tenth Circuit Court of Appeals *En Banc* (full court) in Denver, Colorado. In an opinion filed on February 23, 2006, the court stated: "On rehearing en banc, the decision of the [USDE] Secretary is affirmed by an equally divided court." This time the vote was 6-6.

Zuni and Gallup-McKinley then appealed the decision of the US Tenth Circuit Court of Appeals to the US Supreme Court, which agreed to hear the case. Oral arguments were presented on

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<sup>1</sup> GEPA provides that "The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year unless Congress, in the regular session that ends prior to the beginning of the terminal fiscal year of such authorization or duration, has passed legislation that becomes law and extends or repeals the authorization of such program" (20 U.S.C.1226a).

January 10, 2007, and on April 17, 2007, the court issued its opinion. The vote was 5-4 in favor of USDE and the US Secretary of Education. The majority concluded that:

...the history of the statute strongly supports the Secretary. Congress first enacted an impact aid “equalization” exception in 1974. The exception originally provided that the “ter[m] ... ‘equaliz[ing] expenditures’ ... shall be defined by the [Secretary].” ...Soon thereafter, in 1976, the Secretary promulgated the regulation here at issue defining the term “equalizing expenditures” in the manner now before us. ...As far as we can tell, no Member of Congress has ever criticized the method the 1976 regulation sets forth nor suggested at any time that it be revised or reconsidered.

In addition, according to the majority, “the Secretary’s method falls within the scope of the statute’s plain language.”

Lawyers for Zuni and Gallup-McKinley asked the Supreme Court to rehear the case. On June 4, 2007, the court denied that request.

**PUBLIC EDUCATION DEPARTMENT  
HISTORY OF CREDITS CONSIDERED IN STATE EQUALIZATION GUARANTEE  
JUNE THROUGH MAY OF RESPECTIVE FISCAL YEAR**

Revised 12/21/06					
	Impact Aid at 95%	Forest Reserve at 95%	Local Tax at 95%	Los Alamos Adjustment	Total Credits
Appropriated 1993-1994	\$28,000,000	\$700,000	\$6,000,000	\$957,774	\$35,657,774
Actual 1993-1994	\$23,532,552	\$778,516	\$6,351,753	\$859,113	\$31,521,934
Difference (actual vs. approp.)	-\$4,467,448	\$78,516	\$351,753	-\$98,661	-\$4,135,840
% Difference	-15.96%	11.22%	5.86%	-10.30%	-11.60%
Appropriated 1994-1995	\$29,000,000	\$750,000	\$6,200,000	\$1,261,500	\$37,211,500
Actual 1994-1995	\$25,701,158	\$693,348	\$6,295,265	\$892,857	\$33,582,628
Difference (actual vs. approp.)	-\$3,298,842	-\$56,652	\$95,265	-\$368,643	-\$3,628,872
% Difference	-11.38%	-7.55%	1.54%	-29.22%	-9.75%
Appropriated 1995-1996	\$23,000,000	\$750,000	\$6,400,000	\$850,000	\$31,000,000
Actual 1995-1996	\$34,623,729	\$521,820	\$6,310,734	\$495,178	\$41,951,461
Difference (actual vs. approp.)	\$11,623,729	-\$228,180	-\$89,266	-\$354,822	\$10,951,461
% Difference	50.54%	-30.42%	-1.39%	-41.74%	35.33%
Appropriated 1996-1997	\$23,000,000	\$750,000	\$6,400,000	\$900,000	\$31,050,000
Actual 1996-1997	\$42,955,792	\$310,498	\$7,229,857	\$518,572	\$51,014,719
Difference (actual vs. approp.)	\$19,955,792	-\$439,502	\$829,857	-\$381,428	\$19,964,719
% Difference	86.76%	-58.60%	12.97%	-42.38%	64.30%
Appropriated 1997-1998	\$30,000,000	\$300,000	\$6,400,000	\$600,000	\$37,300,000
Actual 1997-1998	\$48,134,247	\$461,617	\$7,607,040	\$0	\$56,202,903
Difference (actual vs. approp.)	\$18,134,247	\$161,617	\$1,207,040	-\$600,000	\$18,902,903
% Difference	60.45%	53.87%	18.86%	-100.00%	50.68%
Appropriated 1998-1999	\$42,179,300	\$300,000	\$8,000,000	N/A	\$50,479,300
Actual 1998-1999	\$51,180,455	\$405,723	\$7,699,627	N/A	\$59,285,805
Difference (actual vs. approp.)	\$9,001,155	\$105,723	-\$300,374	N/A	\$8,806,504
% Difference	21.34%	35.24%	-3.75%	N/A	17.45%
	Impact Aid at 75%*	Forest Reserve at 75%*	Local Tax at 75%*	Los Alamos Adjustment	Total Credits
1999-2000 Appropriated	\$42,750,000	\$306,000	\$6,427,500	N/A	\$49,483,500
Actual 1999-2000	\$45,895,835	\$342,135	\$6,707,541	N/A	\$52,945,511
Difference (actual vs. approp.)	\$3,145,835	\$36,135	\$280,041	N/A	\$3,462,011
% Difference	7.36%	11.81%	4.36%	N/A	7.00%
2000-2001 Appropriated	\$42,750,000	\$306,000	\$6,427,500	N/A	\$49,483,500
Actual 2000-2001	\$43,884,449	\$255,520	\$7,454,768	N/A	\$51,594,736
Difference (actual vs. approp.)	\$1,134,449	(\$50,480)	\$1,027,268	N/A	\$2,111,236
% Difference	2.65%	-16.50%	15.98%	N/A	4.27%
2001-2002 Appropriated	\$46,750,000	\$306,000	\$6,427,500	N/A	\$53,483,500
Actual 2001-2002	\$48,844,943	\$661,877	\$7,597,889	N/A	\$57,104,709
Difference (actual vs. approp.)	\$2,094,943	\$355,877	\$1,170,389	N/A	\$3,621,209
% Difference	4.48%	116.30%	18.21%	N/A	6.77%
2002-2003 Appropriated	\$50,750,000	\$306,000	\$6,427,500	N/A	\$57,483,500
Actual 2002-2003	\$50,362,539	\$701,674	\$7,839,332	N/A	\$58,903,545
Difference (actual vs. approp.)	(\$387,461)	\$395,674	\$1,411,832	N/A	\$1,420,045
% Difference	-0.76%	129.31%	21.97%	N/A	2.47%
2003-2004 Appropriated	\$50,750,000	\$350,000	\$7,500,000	N/A	\$58,600,000
Actual 2003-2004 <sup>s</sup>	\$50,416,043	\$643,805	\$8,492,740	N/A	\$59,552,588
Difference (actual vs. approp.)	(\$333,957)	\$293,805	\$992,740	N/A	\$952,588
% Difference	-0.66%	83.94%	13.24%	N/A	1.63%
2004-2005 Appropriated	\$52,580,000	\$670,000	\$7,750,000	N/A	\$61,000,000
Actual 2004-2005	\$51,902,494	\$595,150	\$8,951,452	N/A	\$61,449,095
Difference (actual vs. approp.)	(\$677,506)	(\$74,850)	\$1,201,452	N/A	\$449,095
% Difference	-1.29%	-11.17%	15.50%	N/A	0.74%
2005-2006 Appropriated	\$50,000,000	\$600,000	\$8,000,000	N/A	\$58,600,000
Actual 2005-2006	\$46,640,380	\$874,089	\$10,217,398	N/A	\$57,731,867
Difference (actual vs. approp.)	(\$3,359,620)	\$274,089	\$2,217,398	N/A	(\$868,133)
% Difference	-6.72%	45.68%	27.72%	N/A	-1.48%
2006-2007 Appropriated	\$48,100,000	\$600,000	\$8,900,000	N/A	\$57,600,000
Actual 2006-2007	\$44,803,042	\$785,548	\$10,713,278	N/A	\$56,301,868
Difference (actual vs. approp.)	(\$3,296,958)	\$185,548	\$1,813,278	N/A	(\$1,298,132)
% Difference	-6.85%	30.92%	20.37%	N/A	-2.25%
2007-2008 Appropriated	\$45,700,000	\$700,000	\$9,200,000	N/A	\$55,600,000
<b>PROJECTED 2007-2008</b>	\$45,700,000	\$700,000	\$9,200,000	N/A	\$55,600,000
Difference (actual vs. approp.)	\$0	\$0	\$0	N/A	\$0
% Difference	0.00%	0.00%	0.00%	N/A	0.00%

\*Laws of 1999, Chapter 275 amended the *Public School Finance Act* to reduce the state credit from 95 percent to 75 percent of the federal and local revenues.

## THE APPEAL

The following is an overview of the appeal filed by Zuni Public Schools and Gallup-McKinley County Public Schools with the US Tenth Circuit Court of Appeals regarding the certification made by the US Department of Education (USDE) that allowed New Mexico to take credit for federal Impact Aid revenue in determining the distribution for the State Equalization Guarantee (SEG) for school year 1999-2000. Included are each district's challenge on appeal and the decision of the three-judge panel of the court in December 2004:

**Zuni Public Schools framed its appeal on whether the USDE and the state followed the provisions in federal law for determining if the state maintains an “equalized” funding system for its school districts statewide.**

- The “equalized” determination is based on a “disparity” computation that allows the state to rank school districts within the state on the basis of current expenditures **or** revenue per pupil for the second preceding year before the year of determination; disregards school districts at or above the 95<sup>th</sup> or below the 5<sup>th</sup> percentiles of those expenditures or revenues in the state; and subtracts the lower expenditure or revenue per pupil figures from the higher figures and divides the difference by the lower figure. If the resulting percentage results in a “disparity” of not more than 25 percent, the state is considered “equalized” and is allowed to offset or take credit for federal Impact Aid revenues in the state’s calculation of the SEG distribution.
- According to PED, the department computes the “disparity” on the basis of revenue per pupil and on USDE’s regulation and the methodology outlined in the appendix to the regulation. The appendix, PED states, allows the 95<sup>th</sup> and 5<sup>th</sup> percentiles to be calculated **based on the total number of pupils in attendance in the school districts**. As a result, the “disparity” for school year 1999-2000 was calculated to be 14.43 percent which is 10 points below the disparity requirement of 25 percent.
- The Zuni school district objected and argued that the law requires that the referenced percentiles be calculated **based on the number school districts**. This methodology would have resulted in the state not meeting the 25 percent disparity requirement.
- According to statements contained in the petition for review, two of the three circuit judges of the US Tenth Circuit Court of Appeals agreed with the methodology used by PED for the “disparity” calculation based on the total number of pupils in the state by stating:

[B]asing an exclusion on numbers of districts would act to apply the disparity standard in an unfair and inconsistent manner among States. The purpose of the exclusion is to eliminate those anomalous characteristics of a distribution of expenditures. In States with a small number of large districts, an exclusion based on percentage of school districts might exclude from the measure of disparity a substantial percentage of the pupil population in those States. Conversely, in States with large numbers of small districts, such an approach might exclude only an

insignificant fraction of the pupil population and would not exclude anomalous characteristics.

**Gallup-McKinley County Public Schools’ argument challenged the across-the-board percentage credit that is applied to all school districts that receive federal Impact Aid revenues in the calculation of the SEG. The district argued that the percentage credit should be made on a case-by-case basis based on a “proportion to the share that local tax revenues covered under a state equalization program are of total local tax revenues.”**

- In school year 1999-2000, state law allowed PED to assume a 75 percent credit of Impact Aid revenues received by an Impact Aid district. According to data from PED, the Gallup-McKinley’s share of the total local tax revenues for school year 1999-2000 was approximately 3.0 percent. Had the district prevailed, the state would only have been allowed to take 3.0 percent, rather than 75 percent, of the district’s Impact Aid basic support revenues in the calculation of the SEG. Other impacted districts would have also had their credit percentage adjusted based on their proportion of the total local tax revenues statewide. In all instances, the adjustments would have resulted in a reduction in the percentage credit used for the calculation of the SEG.
- However, the court declined to devote any substantial analysis to the merits of Gallup-McKinley’s contention because they concluded that the district failed to raise the issue in a sufficient manner. Therefore, the petition for review of the court was denied.

## NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA LEGISLATIVE CHANGES, 1974 - 2008

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Enacted by the New Mexico Legislature in 1974, the state's current public school funding formula was designed to distribute operational funds to local school districts in an objective manner, based upon the educational needs of individual students and the costs of the programs designed to meet those needs. Program cost differentials in the original formula were based upon nationwide data regarding the relative costs of various school programs, as well as experience in New Mexico. The objectives essential to the formula were (1) to equalize educational opportunity statewide (by crediting certain local and federal support and then distributing state support in an objective manner) and (2) to retain local autonomy in actual use of funds by making the distribution noncategorical and thus allow districts to address needs specific to the local school population.

The formula is divided into three basic parts:

1. Educational Program Units that reflect the different costs of identified programs;
2. Training and Experience Units that attempt to provide additional funds so that districts may hire and retain better educated and more experienced instructional personnel; and
3. Other adjustment units that recognize local school and district needs, economies of scale, enrollment growth from one year to the next, at risk, National Board for Professional Teaching Standards (NBPTS) certified teachers, and adjustments for the creation of a new district.

### Early Childhood Program Units

- 1976 Increased the kindergarten differential from 1.1 to 1.3 units per FTE and limited each student to 0.5 FTE.
- 1977 Prohibited generation of size adjustment units for separate schools for kindergarten and vocational or alternative education.
- 1990 Increased the cost differential for kindergarten from 1.3 units per FTE student to 1.44 units.
- 1997 Included three- and four-year-old developmentally disabled students in the early childhood FTE.
- 2000 Added an early childhood FTE of 1.00 to provide for voluntary full-day kindergarten over a five-year phase-in. Retained the 0.5 FTE for half-day kindergarten and for three- and four-year-old developmentally disabled students.

### Elementary Program Units

- 1991 Increased the cost differential weighting for grade 1 from 1.1 to 1.26 (effective July 1, 1991) to provide funding for the partial implementation of the grade 1 class size reduction provisions of the *Public School Reform Act* (teacher provisions only; instructional assistants provision scheduled for implementation in 1992-1993). Increased grade 1 cost differential to 1.42 (effective July 1, 1992).

## **NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA LEGISLATIVE CHANGES, 1974 - 2008**

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- 1993 Legislation enacted in January 1993 changed the cost differential factor for grade 1 from 1.42 to 1.26 and made the change retroactive for school year 1992-1993. Legislation signed in April 1993 (1) changed the cost differential for grade 1 from 1.42 to 1.2; (2) increased the cost differential for grades 2 and 3 from 1.1 to 1.18; and (3) increased the cost differential for grades 4, 5, and 6 from 1.0 to 1.045. The April 1993 changes were part of legislation enacted to establish average class loads for elementary school teachers at individual schools not to exceed an average of 22 students in grades 1, 2, and 3 (effective July 1, 1993) and not to exceed 24 students in grades 4, 5, and 6 (effective July 1, 1994), while providing full-time instructional assistants in first grade classes with 21 or more students and requiring that special education students be counted in calculating class average sizes when those students are integrated into regular classrooms for any part of the day.

### **Secondary Program Units**

- 1976 Increased the grades 7-9 differential from 1.2 to 1.25, decreased the grades 10-12 differential from 1.4 to 1.25, and eliminated the separate vocational education differential (resulting in a single differential of 1.25 for grades 7-12, which includes support for vocational education).
- 1977 Prohibited generation of size adjustment units for separate schools for kindergarten and vocational or alternative education.

### **Special Education Program Units**

- 1976 Decreased the special education D level differential from 3.8 to 3.5.
- 1976 Amended statute to provide two support options for special education A and B level programs: (a) additional support at 0.12 units for each basic program unit generated in grades 1-3 (an option eliminated in 1980); or (b) 20 program units per program.
- 1977 Restricted special education support to students ages 5-21.
- 1980 Eliminated the option of funding special education A and B level programs based upon grades 1-3 enrollment.
- 1980 Implemented an administrative procedure to fund ancillary services at 20 program units per FTE ancillary staff member.
- 1984 Amended the basis for funding to 40<sup>th</sup> day enrollment (except for special education, which became the higher of the 40<sup>th</sup> or 80<sup>th</sup> day enrollment).
- 1985 Established programs for three- and four-year-old developmentally disabled children, with a two-year phase-in beginning with school year 1986-1987.
- 1987 Enacted formula funding for three- and four-year-old developmentally disabled children at a cost differential of 3.5 units per member, inclusive of all ancillary services.



## NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA LEGISLATIVE CHANGES, 1974 - 2008

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- 1990 Changed the calculation of special education membership from the 40<sup>th</sup> or 80<sup>th</sup> day to December 1 of the school year.
- 1992 Removed references to “a special classroom” when defining special education.
- 1994 Amended sections of the *Public School Code* to provide for a change in the determination of eligibility for gifted services.
- 1995 Appropriated \$2.8 million to the state equalization guarantee for special education related services to include evaluation.
- 1996 Appropriated \$2.8 million to the state equalization guarantee for special education related services to include evaluation.
- 1997 Amended special education factors to count all students at grade level and three- and four-year-old developmentally disabled students at kindergarten membership; to fund D level and three- and four-year-old developmentally disabled students at 2.00 in addition to the regular grade level weights; to fund C level students at 1.00 in addition to the regular grade level weights; and to fund A and B level students at 0.7 in addition to regular grade level weights.
- 1997 Amended the *Public School Finance Act* to fund special education ancillary services, including diagnosticians, at 25 program units per FTE ancillary staff member.

### **Bilingual Education Program Units**

- 1976 Changed bilingual education differential from 0.5 to 0.3.
- 1987 Expanded eligibility for bilingual program funding to include students in grades 7-12, phased in over three years beginning in school year 1988-1989.
- 1990 Authorized increases in bilingual education cost differential from .3 unit per FTE student to 0.35 unit in school year 1990-1991, 0.4 unit in school year 1991-1992, 0.45 unit in school year 1992-1993, and 0.5 unit in school year 1993-1994.
- 1991 Funded bilingual education at 0.4 per FTE, the second in a four-step process designed to increase the bilingual factor to 0.5 as required by legislation enacted during the 1990 legislative session.
- 1992 Changed the cost differential for bilingual education program units from the current 0.4 to 0.425.
- 1993 Amended statute to increase the bilingual multicultural cost differential from 0.425 to 0.45 (effective July 1, 1993) and to 0.5 (effective July 1, 1994).

## NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA LEGISLATIVE CHANGES, 1974 - 2008

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### **Fine Arts Education Program Units**

- 2003 Established a factor to be phased in over a three-year period to provide additional funding to districts offering PED-approved elementary arts education programs: 0.0166 for school year 2003-2004, 0.0332 for school year 2004-2005, and 0.05 for school year 2005-2006 and succeeding school years.

### **Elementary Physical Education Program Units**

- 2007 Established a factor of 0.06 to provide additional funding to districts offering PED-approved elementary physical education programs for students in kindergarten through grade six, with priority given to schools that have the highest proportion of students most in need based on the percentage of students eligible for free or reduced-fee lunch or grade-level schools. PED is required to determine annually the programs and the number of students that will receive state financial support in accordance with available funding (effective with school year 2007-2008).

### **Instructional Staff Training & Experience (T&E) Units**

- 1981 Changed the calculation of the Training and Experience (T&E) Index to base its calculation on the prior year's staffing.
- 1993 Provided categorical appropriations of \$1.4 million (General Fund) and \$1.8 million (State Support Reserve Fund) in the *General Appropriation Act* for additional distribution to school districts that did not receive waivers from the State Superintendent of Public Instruction for calculation of October 1992 T&E Indices. The distribution was calculated as follows: number of membership program units times 0.008 times the unit value established for school year 1993-1994.
- 1993 Amended statute to hold harmless school districts with a T&E Index of less than 1.0.
- 1994 Provided a categorical appropriation of \$3.1 million (General Fund) in the *General Appropriation Act* for an additional distribution to school districts that did not receive waivers from the State Superintendent of Public Instruction for the calculations of the October 1993 T&E Indices. The distribution was calculated as follows: number of membership program units times 0.007 times the unit value established for school year 1994-1995.
- 1995 Provided a categorical appropriation of \$3.4 million in the *Education Appropriation Act* for an additional distribution to school districts that did not receive waivers from the State Superintendent of Public Instruction for the calculation of the October 1994 T&E Indices. The distribution was calculated as follows: number of membership program units times 0.007 times the unit value established for school year 1995-1996.
- 1996 Provided a categorical appropriation of \$3.2 million in the *General Appropriation Act* for an additional distribution to school districts that did not receive waivers from the State Superintendent of Public Instruction for calculation of the October 1995 T&E Indices. The distribution was calculated as follows: number of membership program units times 0.007 times the unit value established for school year 1996-1997.

## **NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA LEGISLATIVE CHANGES, 1974 - 2008**

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### **At-Risk Program Units**

- 1997 Amended statute to include an at-risk factor, which is available to all school districts and is determined by a neural network computer analysis computation based upon the district's percent of Title I-eligible students, limited English proficient (LEP) students, mobility rates, and dropout rates.
- 2002 Amended statute to change the calculation of the at-risk index to eliminate the neural network methodology and to base the calculation of the at-risk index on a three-year average rate of three student variables (Title I eligibility, limited English proficiency, and district mobility rate), to require recalculation of the index each year, and to hold districts harmless for three years beginning with FY 03 at no less than 90 percent of the at-risk funding generated in FY 01.

### **National Board for Professional Teaching Standards Units**

- 2003 Established a factor to provide a yearly, one-time salary differential for teachers who are certified by NBPTS. The differential is calculated by multiplying by 1.5 the number of NBPTS-certified teachers employed by a district on or before the 40<sup>th</sup> day of the school year and verified by PED by the current year's unit value.

### **Activities Units**

- 2006 Amended statute (1) to provide that a charter school student is eligible to participate in school district activities at the public school in the attendance zone in which the student resides, according to New Mexico Activities Association (NMAA) guidelines, and (2) to establish a factor of 0.1 to provide additional funds to the school district, effective with school year 2007-2008.
- 2007 Amended statute (1) to provide that a home school student is eligible to participate in one school district athletic activity at the public school in the attendance zone in which the student resides, according to NMAA guidelines, and (2) to establish a factor of 0.1 to provide additional funds to the school district, effective with school year 2007-2008.

### **Size Adjustment Units**

- 1976 Added rural isolation factor (sometimes called "sparsity") for school districts with over 10,000 average daily membership (ADM) with a ratio of ADM to senior high schools less than 4,000 to 1 based on the number of approved regular senior high schools which were not eligible for senior high units. (Historically, the rural isolation factor has applied only to the Gallup-McKinley County school district.)
- 1977 Prohibited generation of size adjustment units for separate schools for kindergarten and vocational or alternative education.
- 1979 Increased multiplier in the rural isolation factor from 0.2 to 0.5.
- 1981 Added an optional method of calculating the high school size adjustment (the "400 option") to the formula.

## NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA LEGISLATIVE CHANGES, 1974 - 2008

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- 1989 Placed two new urban factors (sometimes called “density”) in the formula, effective July 1991, to provide additional program units to school districts with enrollments (a) in excess of 10,000 but fewer than 35,000; and (b) of 35,000 or more.
- 1991 Added a third urban factor to the formula dealing with school districts with membership of more than 10,000 and less than 15,000 and readjusted the formulas for districts with membership of (a) more than 15,000 but fewer than 35,000; and (b) more than 35,000.
- 1993 Amended statute to allow early childhood centers to generate size adjustment program units.
- 1997 Repealed “density” factor units and replaced them with at-risk program units (see above).

### **Size Adjustment – Enrollment Growth Units**

- 1990 Added a new factor in the formula, phased in over a two-year period:
- defined growth as the difference between the current year funded membership and the prior year funded membership; and
  - in a district with a growth rate greater than 1.0 percent, multiplied the total number of new students by the growth factor (0.25 unit per additional student in school year 1990-1991 and then 0.5 units in school year 1991-1992).
- 1999 *General Appropriation Act* language for FY 00 increased the enrollment growth factor from 0.5 to 1.0 for enrollment growth in districts and first-time formula-based programs using current year rather than prior year MEM. This change did not remain in effect beyond FY 00.
- 2003 Changed the way in which growth units are calculated (adjusted calculations to exclude full-day kindergarten membership for the first year that full-day kindergarten is implemented in a school):
- defines growth as the difference between the current year 40<sup>th</sup> day membership and the prior year 40<sup>th</sup> day membership; and
  - in a district with a growth rate greater than 1.0 percent, multiplies the number of new students above the 1.0 percent threshold by a factor of 1.5 and multiplies the total number of new students by a factor of 0.5.
- 2006 Effective with school year 2007-2008, allowed a charter school with a growth rate greater than 1.0 percent to generate and retain any funding attributable to that growth. Prior to school year 2007-2008, the charter school’s growth was considered district growth.

### **Size Adjustment – New District Adjustment Units**

- 1993 Amended the *Public School Code* to provide a newly created school district with a T&E Index of 1.2 and a new district adjustment factor; also provided additional program units to any district that experiences a decline in membership as a result of the creation of a new district.

## NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA

### LEGISLATIVE CHANGES, 1974 - 2008

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#### Small Districts/Charter Schools

- 1985 Provided \$750,000 for small school districts faced with a financial emergency that would negatively affect the educational program of the district.
- 1986 Amended statute to hold harmless small districts (fewer than 200 students) with declining enrollments.
- 2002 Required program units for a school district with a basic program MEM of 200 or fewer to be based on the average MEM of the 40<sup>th</sup>, 80<sup>th</sup>, and 120<sup>th</sup> days of the prior year or on the 40<sup>th</sup> day of the current year, whichever is greater.
- 2005 Effective with school year 2006-2007, required program units for a school district with a basic program MEM of 200 or fewer to be based on the average MEM of the 80<sup>th</sup> and 120<sup>th</sup> days of the prior year or on the 40<sup>th</sup> day of the current year, whichever is greater.
- 2006 Effective with school year 2007-2008, required program units for a charter school with a basic program MEM of 200 or fewer to be based on the average MEM of the 80<sup>th</sup> and 120<sup>th</sup> days of the prior year or on the 40<sup>th</sup> day of the current year, whichever is greater.

#### State Equalization Guarantee – Determination of Amount

The state equalization guarantee distribution is the amount of money distributed by the state to each school district and state-chartered charter school to ensure that school district's or charter school's respective operating revenues, including certain local federal revenues, are equal to the district's or charter school's program costs. The determination of the district's or charter school's distributions is a relatively straightforward process. For the state equalization guarantee distribution (an average of almost 90 percent of operational revenue statewide), each district's and charter school's units are multiplied times a unit value to establish program cost. Currently, the state's allocation to each district and state-chartered charter school equals the program cost minus any cash balance credit and minus 75 percent of the local 0.5 mill levy, noncategorical federal Impact Aid revenues, and federal forest reserve income.

- 1975 Passed legislation to require school districts to keep accurate records concerning membership and to calculate an equivalent average daily membership (ADM) for use in projecting school district revenue.
- 1979 Implemented a 50 percent hold-harmless provision for any reduction in PL 874 (now called Impact Aid) funding for Los Alamos.
- 1981 Enacted phase-in of the "Big Mac" tax reduction over three years:
  - *1981 tax year:* reduced property taxes for schools from 8.925 mills to .5 mills on residential, 4.0 mills on nonresidential and oil and gas severance with the 4.0 mills credited at 95 percent.
  - *1982 tax year:* 0.5 mills on residential, 2.0 mills on nonresidential and oil and gas severance, with the 2.0 mills credited at 95 percent.
  - *1983 and subsequent tax years:* 0.5 mills on all property and oil and gas severance, with no crediting.

## NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA LEGISLATIVE CHANGES, 1974 - 2008

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- 1985 Enacted the “PL 874 fix,” which (a) added proceeds from half-mill property tax levy and oil and gas severance taxes to local revenue, subject to crediting at 95 percent, and equalized redistribution; (b) excluded PL 874 special education support from federal revenues to be credited; (c) eliminated motor vehicle fees as source of local revenue; (d) eliminated the save-harmless provision associated with property tax reductions enacted in 1981; and (e) changed methodology for funding special education students in Los Alamos.
- 1988 Amended state crediting of federal PL 874 funds to discontinue taking credit for students living on Indian lands.
- 1992 Instituted what came to be called the “floating unit value” in the *General Appropriation Act*, by including an overall appropriation amount without establishing the actual unit value, as had been the practice in the past. Required the State Superintendent of Public Instruction to determine a preliminary unit value for the state equalization guarantee for academic year 1992-1993 to be used for districts to establish tentative budgets for school year 1992-1993. Upon verification of the number of units statewide, the Superintendent of Public Instruction was authorized to increase the program unit value. The intent of the language was to encourage the State Department of Education and the districts to be more accurate in their projections. **While never added to statute, this language or its equivalent has been included with each public school support appropriation since the *General Appropriation Act of 1992*.**
- 1993 Amended the *Public School Finance Act* to require school districts with more than 30,000 students to develop a school-based budgeting plan for all schools with voluntary participation by individual schools (applies only to Albuquerque Public Schools).
- 1993 Amended the *Public School Finance Act* (with an emergency clause and therefore effective for the school year 1993-1994 budget development period) to provide for parent input in the local school board budget process.
- 1997 The Legislature included sufficient funds in the state equalization guarantee to implement the funding formula changes enacted during the 1997 legislative session and to hold harmless all districts from any reduction from the previous year’s appropriation.
- 1999 Required the calculation of program units for the state equalization guarantee distribution to be as follows: effective July 1, 1999, the use of prior year 40<sup>th</sup> day and December 1 membership; and effective July 1, 2000, the use of prior year average of the membership on the 40<sup>th</sup>, 80<sup>th</sup>, and 120<sup>th</sup> days.
- 1999 Reduced from 95 to 75 the percentage of a school district’s federal revenue (Impact Aid and Forest Reserve) and local revenues (0.5 mill levy) for which the state takes credit in determining the state equalization guarantee; earmarked the 20 percent difference for school district capital outlay needs.

## NEW MEXICO'S PUBLIC SCHOOL FUNDING FORMULA LEGISLATIVE CHANGES, 1974 - 2008

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- 2003 Passed legislation limiting the amount of cash balance that may be retained by each school district and charter school at the end of a fiscal year (allowable limit) to a percentage of budgeted expenditures based on the amount of the district's or charter school's current year program cost and allowing the state to take credit for the excess cash balance up to a specific percentage of the estimated limit.
- 2004 Made a technical correction to the statute regarding district and charter school cash balances to ensure that the amount of the excess cash balance for which the state takes credit is based on the actual excess cash balance rather than on the allowable limit.
- 2005 Passed legislation to:
- remove the requirement that school districts budget for capital outlay an amount of their state aid equal to 20 percent of the federal revenue ( Impact Aid and Forest Reserve) and local revenue (0.5 mill levy) for which the state takes credit in calculating the districts' state equalization guarantee;
  - require school districts and charter schools, effective school year 2006-2007, to use the average of the prior year 80<sup>th</sup> and 120<sup>th</sup> day memberships in calculating program units; and
  - allow the Public Education Department, in determining a school district's state equalization guarantee, to deduct from the district's total program cost 90 percent of the district's certified portion of the debt service payment on bonds authorized pursuant to the *Energy Efficiency and Renewable Energy Bonding Act*.
- 2006 Amended statute to:
- increase the amount of cash balance that a school district or charter school may retain relative to the size of its budgeted program cost;
  - reinstate the provision that the amount of the excess cash balance for which the state takes credit is based on a specific percentage of the estimated amount of cash balance that a district or charter school may retain rather than on the district's or charter school's actual excess cash balance; and
  - upon application by a school district, allow the Secretary of Public Education to waive all or a portion of the cash balance credit if the secretary finds that the school district's excess cash balance is needed to provide the local match required under the *Public School Capital Outlay Act* or to recoup an amount paid as the district's share for a qualified high priority project.
- 2007 Amended statute to:
- again increase the amount of cash balance that a school district or charter school may retain relative to the size of its budgeted program cost; and
  - provide that the amount of the excess cash balance for which the state takes credit is based on the actual excess cash balance rather than on the allowable limit.